

IN THE SENATE OF THE UNITED STATES.

MARCH 23, 1880.—Ordered to be printed.

Mr. EDMUNDS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bills S. 199 and H. R. 2377.]

The Committee on the Judiciary, to which was referred House bill No. 2377, entitled "An act for the relief of Catherine I. Gillis," respectfully report that it has carefully considered the same.

This is a claim for the proceeds of a quantity of cotton seized by the military authorities of the United States on the capture of the city of Charleston in the spring of 1865.

The only evidence in support of the claim submitted to the committee is contained in the record of the case of Gillis *vs.* United States, in the Court of Claims, instituted in the year 1867, under the captured and abandoned property act. The only oral evidence submitted by the claimant in that court, bearing directly upon the subject of the cotton in question and the status of the alleged owners thereof, was that of one Edward L. Roche, who swears that he was the owner of the cotton, and that on the 4th February, 1865, at Charleston, he sold it to one John S. Ryan for \$154,465, Confederate currency, and that the transaction was *bona fide*. He swore that he could not tell from whom the cotton was purchased by himself, although he knows that it was paid for in Confederate money. He admits on cross-examination that at the time he purchased the cotton he was a commissary of subsistence in the Confederate army. There is no reason to suppose that he did not continue to be such until the time he sold the cotton to Ryan. He also states that Ryan, too, was a Confederate commissary of subsistence at the time of the transaction. At the time of the alleged sale from Roche to Ryan the armies of the United States were approaching Charleston from the west, and its fall was almost certain and was generally expected by the enemies of the United States. General Sherman's Army occupied Charleston on 18th February, 1865.

Cotton was contraband of war (see Mrs. Alexander's case, 2 Wall., 404). In this condition of things, the statement of Roche, of his inability to tell from whom he purchased the cotton, leads to the belief that the cotton originally was either the property of the so-called Confederate States, or had been in some way advanced or loaned to them, or purchased with their money by this commissary. The circumstances lead to the belief that the transaction between Roche and Ryan was one had with a view to the probability that the cotton would presently fall into the hands of the military authorities of the United States. On the 13th of March, 1865, Ryan addressed a letter to the commandant of the post of Charleston, alleging that he had never forfeited his allegiance to the United

States Government, but had strengthened it by taking the oath prescribed by the proclamation of December, 1863. He offers to place the cotton at the disposal of the government, having heard, as he says, that cotton and other property had been taken from private citizens without giving a receipt, &c. The commandant forwarded the communication to headquarters, with the statement that Ryan was formerly a rebel officer. On the 15th of March the commander ordered the proper officers to seize the cotton as in other cases, and to enter in the book in which the accounts were kept that Ryan had held a commission and served in the rebel army up to the date of the capture of Charleston. An affidavit of one Peak tends to show that this cotton (though the identity does not perfectly appear) was removed from Augusta, Ga., to Charleston in the early part of February, 1865, which would seem to indicate that it was being pushed to the seaboard for exportation and to prevent its falling into the hands of the armies of the United States approaching Augusta. It is also stated in the registration book that this cotton was moved into Ryan's yard only two or three days previous to the capture of the city, and no doubt belonged to Fraser & Co., blockade runners, in which firm Trenholm, rebel secretary of state, was partner, and Ryan agent.

Gillis claimed the cotton in the Court of Claims as assignee of Ryan. The evidence to show the assignment was extremely doubtful, but pending proceedings in the Court of Claims Ryan and Gillis composed that dispute, and agreed to treat it as an assignment and share the proceeds. The Court of Claims found for the claimant, but it does not appear that any opinion was pronounced in the case. The Supreme Court of the United States reversed the judgment and dismissed the case, on the ground that under the captured and abandoned property act such claims were not assignable. In this state of things the committee sees no ground for granting any relief by Congress. The evident intent, as well as the language, of the act of 1863 was that property, particularly contraband of war, seized by the military authorities of the United States from the possession of its owners who were engaged in the rebellion as a consequence of its military operations, should not be restored, and this has only been avoided by the decision of the Supreme Court that the technical effect of a pardon by the President was to make the pardoned enemy, through all his career, a loyal supporter of the United States within the meaning of the act. When the courts of law are appealed to, they undoubtedly must proceed upon their own notions of the law, but it does not necessarily follow that it is the duty of Congress, by any affirmative action, to give relief in such cases as this. The committee is of opinion that the bill ought not to pass. All of which is respectfully submitted.